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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: MAGAL, Yosef Examiner: CAMPBELL, Thor S.
Serial No.: 10/512,042 Group Art Unit: 3742
Filed: October 21, 2004 Attorney Docket No.: P-5247
Title: IMPROVEMENTS IN THERMOSTAT FOR WATER BOILER

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R.

\$1.181

This petition is filed in response to the Notice of Abandonment dated September 21, 2006 issued by the United States and Trademark Office in connection with the above-identified Application. A copy of the Notice is attached hereto as **Exhibit A**.


The Notice is incorrect and was issued in error. On September 7, 2006, Applicants filed a Response to an Office Action dated March 8, 2006 with the United States Patent and Trademark Office, including a Petition for a Three-Month Extension of Time. Applicants attach hereto, as **Exhibit B**, a copy of the Response to the Office Action dated March 8, 2006 as filed on September 7, 2006 with the United States Patent and Trademark Office. A copy of the postcard receipt stamped by the United States Patent and Trademark Office, evidencing receipt of the Response by the Patent Office on September 7, 2006, is attached hereto as **Exhibit C**.

Based on the above, the Response to the March 8, 2006 Office Action for the subject Application was timely filed with the United States Patent and Trademark Office. Accordingly, Applicants respectfully request that the United States Patent and Trademark

APPLICANTS: MAGAL, Yosef
SERIAL NO.: 10/512,042
FILED: October 21, 2004
Page 2

Office withdraw the Notice of Abandonment and allow the continued prosecution of the referenced patent application.

No fee is believed to be due, as this petition resulted from an error by the USPTO. However, if any fee is required, the undersigned attorney hereby authorizes the Patent Office to charge such additional fee to Deposit Account 50-3355.


Respectfully submitted,

Mark S. Cohen
Attorney for Applicant(s)
Registration No. 42,425

Dated: 17 October 2006

Pearl Cohen Zedek Latzer, LLP
1500 Broadway, 12th Floor
New York, New York 10036
Tel: (646) 878-0800
Fax: (646) 878-0801

EXHIBIT A



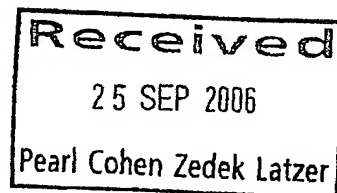
UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/512,042	10/21/2004	Yosef Magal	P-5247-US	2233
49443	7590	09/21/2006	EXAMINER	
PEARL COHEN ZEDEK, LLP 1500 BROADWAY 12TH FLOOR NEW YORK, NY 10036			CAMPBELL, THOR S	
			ART UNIT	PAPER NUMBER
			3742	

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.





Notice of Abandonment

Application No.

10/512,042

Examiner

Thor S. Campbell

Applicant(s)

MAGAL, YOSEF

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 03/08/06.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

THOR S. CAMPBELL
PRIMARY EXAMINER

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

EXHIBIT B



Applicant(s): MAGAL, Yosef
Serial No. /Patent No.: 10/512,042

PCZL Docket No.: P-5247-US
Hand Delivered on: September 7, 2006

Title: IMPROVEMENTS IN THERMOSTAT FOR WATER BOILER

- | | |
|--|---|
| 1. <input type="checkbox"/> Provisional Cover Sheet | 9. <input type="checkbox"/> Response to Notice to File Missing Parts |
| 2. <input type="checkbox"/> Utility Patent Application Transmittal | 10. <input type="checkbox"/> Response to Notice of Incomplete Reply |
| 3. <input type="checkbox"/> RCE Transmittal Sheet | 11. <input type="checkbox"/> Request for Correction of Filing Receipt |
| 4. <input type="checkbox"/> Fee Transmittal Sheet | 12. <input type="checkbox"/> Information Disclosure Statement including:
- Form PTO/SB/08 and references ____ |
| 5. <input type="checkbox"/> Patent Application Under 35 USC 111(a) | 13. <input type="checkbox"/> Preliminary Amendment |
| <input type="checkbox"/> Provisional Patent Application Under 35 USC 111(b) | 14. <input checked="" type="checkbox"/> Response to Office Action
dated <u>March 8, 2006</u> |
| <input type="checkbox"/> Transmittal Sheet for Entering National Phase
Containing:
____ Pages of Specification
____ Pages of Claims
____ Page of Abstract
____ Pages of Formal Drawings
____ Pages of ____ | 15. <input checked="" type="checkbox"/> Petition for a Three Month(s) Extension of
Time |
| 6. <input type="checkbox"/> Signed Declaration & Power of Attorney | 16. <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Appeal Brief ____ |
| 7. <input type="checkbox"/> Request for Correction of Recordation of Assign. and:
- Recordation Cover Sheet
- Copy of Notice of Recordation of Assign. | 17. <input type="checkbox"/> Issue Fee Transmittal <input type="checkbox"/> Publication Fee |
| 8. <input type="checkbox"/> Recordation of Assign. Cover Sheet & Signed Assign. | 18. <input type="checkbox"/> Submission of Formal Drawings: Two sets of
____ Sheets containing Figs. ____ |
| | 19. <input type="checkbox"/> Certified Copy of Priority Doc. |
| | 20. <input type="checkbox"/> Claim for Convention Priority |
| | 21. <input type="checkbox"/> Revocation and Power of Attorney, including:
- Statement Under 37 CFR 3.73(b)
- Copy of Assignment |
| | 22. <input type="checkbox"/> Other: ____ |



Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTO/SB/22 (12-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2005 <small>(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818))</small>		Docket Number (Optional) P-5247-US																																								
<table style="width: 100%; border: none;"><tr><td style="width: 30%;">In re Application of:</td><td>MAGAL, Yosef</td><td style="width: 30%;">Examiner:</td><td></td></tr><tr><td>Application Number:</td><td>10/512,042</td><td>CAMPBELL, Thor S.</td><td></td></tr><tr><td>Filed:</td><td>October 21, 2004</td><td>Group Art Unit: 3742</td><td></td></tr><tr><td>For :</td><td colspan="3">IMPROVEMENTS IN THERMOSTAT FOR WATER BOILER</td></tr></table> <p>This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a response in the above identified application. The requested extension and appropriate fee are as follows (check time period desired):</p> <table style="width: 100%; border-collapse: collapse;"><thead><tr><th style="width: 40%;"></th><th style="width: 15%; text-align: center;"><u>Fee</u></th><th style="width: 15%; text-align: center;"><u>Small Entity Fee</u></th><th style="width: 30%;"></th></tr></thead><tbody><tr><td><input type="checkbox"/> One month (37 CFR 1.17(a)(1))</td><td style="text-align: center;">\$120</td><td style="text-align: center;">\$60</td><td style="text-align: center;">\$ _____</td></tr><tr><td><input type="checkbox"/> Two months (37 CFR 1.17(a)(2))</td><td style="text-align: center;">\$450</td><td style="text-align: center;">\$225</td><td style="text-align: center;">\$ _____</td></tr><tr><td><input checked="" type="checkbox"/> Three months (37 CFR 1.17(a)(3))</td><td style="text-align: center;">\$1020</td><td style="text-align: center;">\$510</td><td style="text-align: center;">\$510</td></tr><tr><td><input type="checkbox"/> Four months (37 CFR 1.17(a)(4))</td><td style="text-align: center;">\$1590</td><td style="text-align: center;">\$795</td><td style="text-align: center;">\$ _____</td></tr><tr><td><input type="checkbox"/> Five months (37 CFR 1.17 (a)(5))</td><td style="text-align: center;">\$2160</td><td style="text-align: center;">\$1080</td><td style="text-align: center;">\$ _____</td></tr></tbody></table> <p><input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> A check in the amount of the fee is enclosed.</p> <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> <p><input type="checkbox"/> The Commissioner has already been authorized to charge fees in this application to a Deposit Account.</p> <p><input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-3355. I have enclosed a duplicate copy of this sheet.</p> <p>I am the <input type="checkbox"/> assignee of record of the entire interest.</p> <p style="margin-left: 100px;"><input type="checkbox"/> applicant.</p> <p style="margin-left: 100px;"><input checked="" type="checkbox"/> attorney or agent of record.</p> <p style="margin-left: 100px;"><input type="checkbox"/> Attorney or agent under 37 CFR 1.34(a).</p> <p style="margin-left: 150px;">Registration number if acting under 37.CFR 1.34(a).</p> <p>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"><div style="width: 40%;"><p style="text-align: center;"><u>7 September 2006</u></p><p style="text-align: center;">Date</p></div><div style="width: 50%; text-align: center;"><p style="text-align: center;">Signature</p><p style="text-align: center;">Guy Yonay Reg. No. 52,388</p><p style="text-align: center;">Typed or printed name</p></div></div> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representatives(s) are required. Submit multiple forms if more than one signature is required, see below.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"><input type="checkbox"/> Total of _____ forms are submitted.</div>			In re Application of:	MAGAL, Yosef	Examiner:		Application Number:	10/512,042	CAMPBELL, Thor S.		Filed:	October 21, 2004	Group Art Unit: 3742		For :	IMPROVEMENTS IN THERMOSTAT FOR WATER BOILER				<u>Fee</u>	<u>Small Entity Fee</u>		<input type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$120	\$60	\$ _____	<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$450	\$225	\$ _____	<input checked="" type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$1020	\$510	\$510	<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1590	\$795	\$ _____	<input type="checkbox"/> Five months (37 CFR 1.17 (a)(5))	\$2160	\$1080	\$ _____
In re Application of:	MAGAL, Yosef	Examiner:																																								
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<input type="checkbox"/> Five months (37 CFR 1.17 (a)(5))	\$2160	\$1080	\$ _____																																							

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



Attorney Docket No.: P-5247-US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): MAGAL, Yosef Examiner: CAMPBELL, Thor R
Serial No.: 10/512,042 Group Art Unit: 3742
Filed: October 21, 2004
Title: IMPROVEMENTS IN THERMOSTAT FOR WATER BOILER

AMENDMENT

Mail Stop Amendment
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Amendment is filed in response to the Office Action dated March 8, 2006 issued by the United States Patent and Trademark Office in connection with the above-identified Application. A response to the March 8, 2006 Office Action was due June 8, 2006. Applicant is concurrently filing a Petition for a 3-Month Extension of Time, including the required fee. Therefore, a response is due September 8, 2006. Accordingly, this Amendment is being timely filed.

Kindly amend the above-identified application as follows:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 4 of this paper.



APPLICANT(S): MAGAL, Yosef
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FILED: October 21, 2004
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AMENDMENTS TO THE CLAIMS

Please add or amend the claims to read as follows, and cancel without prejudice or disclaimer to resubmission in a divisional or continuation application claims indicated as cancelled:

1. (Currently amended) An improved thermostat and heat limitation arrangement for control of power to an electric hot water boiler, ~~comprising~~ comprising:

a tubular structure supporting a first and a second electric switch arranged to be interposed in series between a power supply and an electric heating element,

an extended length first bimetal device being arranged for thermal at least indirect contact with water being heated and being supported by said structure, said extended length bimetal device comprising of a first pair of components made of materials being greatly different in the coefficient of linear thermal expansion, at least one of said components being tubular and the remaining component projecting into said structure to open said first switch when said first bimetal device reaches a first desired temperature,

~~the improvement comprising the addition~~ inside said first bimetal device ~~[[of]]~~ a second bimetal device comprising of a second pair of components made of materials being moderately different in their coefficient of linear thermal expansion, one of said second components also projecting into said structure to open said second switch if said second bimetal device reaches a second temperature higher than said first desired temperature due to failure of said first bimetal device to open said first electric switch,

wherein said thermostat is insertable into said water in said boiler for directly immersing into said water or for insertion in a tube immersed in said water.

2. (Previously presented) The thermostat as claimed in claim 1, wherein said second switch when opened remains in the open state until a reset control is manually operated.

3. (Previously presented) The thermostat as claimed in claim 1, wherein said extended length first bimetal device is composed of a brass outer tube and an invar central rod.

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SERIAL NO.: 10/512,042
FILED: October 21, 2004
Page 3

4. (Previously presented) The thermostat as claimed in claim 1, wherein said second bimetal device comprises a first of said materials being a stainless steel and a second of said materials being invar steel.

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SERIAL NO.: 10/512,042
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REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicant asserts that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

Status of Claims

Claims 1-4 are pending in the application. Claims 1-4 have been rejected. Claim 1 has been amended.

Applicant respectfully asserts that the amendments to claim 1 add no new matter. Support for the amendment of claim 1 may be found, inter alia, in page 6, lines 23 - 27 of the description and in Figs. 2 and 5, referring to part 14 "first bimetal device" and the parts contained in it, such as 16, 22, 24, 30 and 32.

CLAIM REJECTIONS

35 U.S.C. § 102 Rejections

In the Office Action, the Examiner rejected claims 1-4 under 35 U.S.C. § 102(b), as being anticipated by Phillips et al. (US 4,539,468; the '468 patent). Applicant respectfully traverses this rejection in view of the remarks that follow.

The '468 patent discloses an arrangement of primary bimetal 31 and secondary bimetal 32 which are disposed outside of the water vessel, as may clearly be seen in Fig. 2, where the element head 53 is the part of the device of the '468 patent that may be used to indicate the border line between the "wet side" of the device (from element head 53 towards electric heating element 54) and the "dry side" (from element head 53 to the opposite direction). The '468 patent does not teach or suggest, and the Examiner does not suggest that

APPLICANT(S): MAGAL, Yosef
SERIAL NO.: 10/512,042
FILED: October 21, 2004
Page 5

the '468 patent teach or suggest "wherein said thermostat is insertable into said water in said boiler for directly immersing in said water or for insertion into a tube immersed in said water", as recited in amended independent claim 1. As is clearly evident from the '468 patent, inter alia from Figs. 1 and 2 and the corresponding description, not only the two pairs of bimetal (31, 32) may not be immersed in the water of the vessel, it would have not been practical to change the construction of the vessel of the '468 patent so as to allow for inserting these parts in the water, either directly immersed in the water or indirectly inserted in a tube. For a reference to anticipate a claim, the reference must teach all elements of the claim. Therefore, the '468 patent cannot anticipate claim 1.

Accordingly, Applicant respectfully asserts that amended independent claim 1 is allowable. Claims 2-4 depend from, directly or indirectly, claim 1, and therefore include all the limitations of this claim. Therefore, Applicant respectfully asserts that claims 2-4 are likewise allowable. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejections to amended independent claim 1 and to claims 2-4 dependent thereon.

35 U.S.C. § 103 Rejections

In the Office Action, the Examiner rejected claims 3-4 under 35 U.S.C. § 103(a), as being unpatentable over the '468 patent.

Applicant respectfully traverse the rejection of claims 3-4 under 35 U.S.C. § 103(a) in view of the '468 patent because a prima facie case of obviousness has not been established.

An obviousness rejection requires a teaching or a suggestion by the relied upon prior art of all the elements of a claim (M.P.E.P. §2142). Since the '468 patent does not teach or suggest all the elements of independent claim 1, as amended, and since rejected dependent claims 3 and 4 include all the elements of claim 1, the Examiner fails to establish a prima facie showing that the '468 patent teaches or suggests every feature of claims 3-4. Accordingly, applicant respectfully request that the rejection of claims 3-4 under 35 U.S.C. § 103(a) be withdrawn.

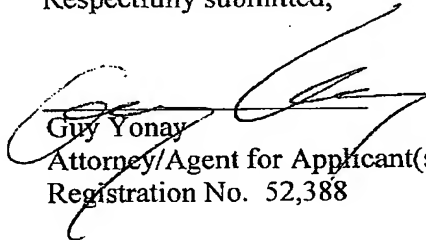
APPLICANT(S): MAGAL, Yosef
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FILED: October 21, 2004
Page 6

In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,


Guy Yonay
Attorney/Agent for Applicant(s)
Registration No. 52,388

Dated: September 6, 2006

Pearl Cohen Zedek Latzer, LLP
1500 Broadway, 12th Floor
New York, New York 10036
Tel: (646) 878-0800
Fax: (646) 878-0801

EXHIBIT C

Applicant(s): MAGAL, Yosef
Serial No. /Patent No.: 10/512,042

PCZL Docket No: P-5147-US
Hand Delivered on: 7 September 2006

Title: IMPROVEMENTS IN THERMOSTAT FOR WATER BOILER

- 1. ☐ Provisional Cover Sheet
- 2. ☐ Utility Patent Application Transmittal
- 3. ☐ RCE Transmittal Sheet
- 4. ☐ Transmittal Sheet for Entering National Phase
- 5. ☐ Fee Transmittal Sheet
- 6. ☐ Patent Application Under 37 CFR 1.53 (b)
- ☐ Provisional Patent Application Under 37 CFR 1.53 (c)

Containing:

— pages of Specification
— pages of Claims
— page of Abstract
— pages of Informal Drawings
— page of

- 7. ☐ Signed Declaration & Power of Attorney
- 8. ☐ Recordation of Assignment Cover Sheet
Assignment
- 9. ☐ Request for Correction of Recordation of Assign. and:
-Recordation Cover Sheet
-Copy of Notice of Recordation of Assignment

- 10. ☐ Response to Notice to File Missing Parts
- 11. ☐ Response to Notice of Incomplete Reply
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- 20. ☐ Certified Copy of Priority Document
- 21. ☐ Claim for Priority under 35 U.S.C. Section 119
- 22. ☐ Revocation and Power of Attorney, including:
- Statement Under 37 CFR 3.73(b)
- Copy of Assignment
- 23. ☐ Other:

LSA# 1251

